

DISCLAIMER

This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 14, 2001

APPLICATION OF

A&N ELECTRIC COOPERATIVE

CASE NO. PUE010008

For approval of a functional
separation plan pursuant to
the Virginia Electric Utility
Restructuring Act

ORDER PRESCRIBING NOTICE AND INVITING
COMMENTS AND REQUESTS FOR HEARING

Section 56-590 of the Virginia Electric Utility Restructuring Act (the "Act"), Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia, requires all incumbent electric utilities to functionally separate their electric generation, retail transmission, and distribution services by January 1, 2002. Section 56-590 of the Act authorized the State Corporation Commission ("Commission") to promulgate rules and regulations to direct the functional separation of electric generation, retail transmission, and distribution services, and to direct that certain requirements be contained in incumbent electric utilities functional separation plans.

The Commission adopted, in Case No. PUA000029, Regulations Governing the Functional Separation of Incumbent Electric Utilities Under the Virginia Electric Utility Restructuring Act (the "Functional Separation Rules"), 20 VAC 5-202-10 et seq.

The Functional Separation Rules govern the relationships between affiliated, functionally separated entities, the Commission's oversight of such affiliated companies, and the requirements of the functional separation plans submitted by each incumbent electric utility to the Commission.

On December 29, 2000, A&N Electric Cooperative, ("A&N" or the "Cooperative"), filed an application for Commission approval of the Cooperative's plan for functional separation. In its application, the Cooperative states that it is currently functionally separated because it does not own or control an affiliated generation company, and does not control all of the elements of bundled service. As such, A&N has no plans to divest itself of any generation assets, to create any new functionally separate entity, or to propose to transfer any functions, services, or employees to a functionally separate entity or third party.¹

In accordance with § 56-590 of the Act and the Functional Separation Rules, however, A&N filed an application that the Cooperative asserts satisfies the Commission requirements of

¹ A&N states in its application that it owns six diesel generators (4 of which are in service) that are positioned on Tangier Island and Smith Island in the Chesapeake Bay. The Cooperative states that these generators are used on a stand-by basis, and help insure system reliability and provide system support on those islands, each of which is served by a single line from the mainland. A&N asserts that these generators operate primarily for distribution system reliability and support rather than to serve load, and it therefore regards them as distribution assets. The Cooperative states it is not planning to functionally separate these generators.

functional separation plans, and provides adequate evidence of the functionally separate operations of the Cooperative. The Cooperative filed a cost of service study ("COS Study") which included proposed unbundled rates to illustrate the Cooperative's rate unbundling. In its application, the Cooperative requests the Commission waive the requirement of 20 VAC 5-202-40 B 8 of the Functional Separation Rules to file unbundled tariff rates and terms and conditions of service with the Cooperative's functional separation plan. The Cooperative requests the waiver extend until the conclusion of the proceeding so it can finalize and submit such filings in compliance with the final order in this proceeding.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion that A&N's application should be docketed, that notice should be given to the public, that interested parties should be given an opportunity to comment or request a hearing on the Cooperative's application, and that Staff should investigate and analyze the Cooperative's application and present its recommendations to the Commission.

In regard to A&N's request for a waiver of the requirement of 20 VAC 5-202-40 B 8 of the Functional Separation Rules, the Commission notes that the Cooperative included proposed unbundled rates along with its cost of service study. A&N has not, however, filed terms and conditions of service supporting

its proposed rates. We will grant the Cooperative's request for a waiver of the requirement to file terms and conditions of service at this time. A&N will be required to file its terms and conditions of service with the Commission, however, in time for the Commission to fully consider them and require notice to the public, if necessary and appropriate, prior to the Cooperative's implementation of retail choice of supply to its customers.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUE010008.

(2) A&N's request for a waiver of the requirement of 20 VAC 5-202-40 B 8 of the Functional Separation Rules to file tariff terms and conditions of service is hereby granted.

(3) Upon further order of the Commission, A&N shall be required to file its tariff terms and conditions of service with the Commission in time for us to fully consider them and to require notice to the public, if necessary and appropriate, prior to the Cooperative's implementation of retail choice of supply to its customers.

(4) The Cooperative's application and accompanying materials may be viewed during regular business hours at the Commission's Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia. Interested parties also may obtain copies by making a written request to

counsel for A&N, John A. Pirko, Esquire, and Robert A. Omberg, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060.

(5) On or before April 5, 2001, A&N shall submit the following notice as display advertising, not classified, to be published in the May publication of Cooperative Living:

NOTICE OF THE APPLICATION OF
A&N ELECTRIC COOPERATIVE
FOR APPROVAL OF A
FUNCTIONAL SEPARATION PLAN
CASE NO. PUE010008

On December 29, 2000, A&N Electric Cooperative ("A&N" or the "Cooperative"), filed an application for State Corporation Commission ("Commission") approval of the Cooperative's plan for functional separation of its electric generation, retail transmission, and distribution assets as required by § 56-590 of the Virginia Electric Utility Restructuring Act (the "Act"), Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia, and the Commission's Regulations Governing the Functional Separation of Incumbent Electric Utilities Under the Virginia Electric Utility Restructuring Act (the "Functional Separation Rules"), 20 VAC 5-202-10 et seq., adopted in Case No. PUA000029.

The Cooperative states that it is currently functionally separated because it does not own or control an affiliated generation company, and does not control all of the elements of bundled service. Therefore A&N has no plans to divest itself of any generation assets, to create any new functionally separate entity, or to propose to transfer any functions, services, or employees to a functionally separate entity or third party.

The Cooperative argues its application satisfies the Commission requirements of functional separation plans, and provides adequate evidence of the functionally separate operations of the Cooperative. The Cooperative filed a cost of service study which included proposed unbundled rates to illustrate the Cooperative's rate unbundling. In its application, the Cooperative requested the Commission waive the requirement of 20 VAC 5-202-40 B 8 of the Functional Separation Rules to file unbundled tariff rates and terms and conditions of service with the Cooperative's functional separation plan until the conclusion of the proceeding so A&N can finalize and submit such filings in compliance with the final order in this proceeding. The Commission noted that the Cooperative filed proposed unbundled rates with its cost of service study. The Commission has granted the Cooperative's request for a waiver of the requirement to file terms and conditions of service at this time. A&N will be required to file its terms and conditions of service with the Commission in time for the Commission to fully consider them and require notice to the public, if necessary and appropriate, prior to the Cooperative's implementation of retail choice of supply to its customers.

A copy of the above-referenced application is available for inspection during regular business hours at the State Corporation Commission, Document Control Center, First Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, or may be obtained by making a written request to A&N's counsel, John A. Pirko, Esquire, LeClair Ryan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060. Interested persons also may obtain a copy of the Commission's Order for Notice and Hearing establishing this proceeding and setting forth the complete procedural

schedule from the Commission's Web site,
www.state.va.us/scc/caseinfo/orders.htm.

Comments on the application must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before June 4, 2001. Requests for hearing also must be submitted in writing to the Clerk on or before June 4, 2001. Requests for a hearing shall state why a hearing is necessary and why such issues cannot be adequately addressed in written comments. All correspondence shall refer to Case No. PUE010008. A copy of any comments or requests for hearing shall also be sent to counsel for A&N, at the address set forth above.

If no sufficient request for hearing is received, a formal hearing with oral testimony might not be held, and the Commission may make its decisions based upon papers filed in this proceeding.

A&N ELECTRIC COOPERATIVE

(6) The Cooperative shall forthwith serve a copy of this Order on the Chairman of the Board of Supervisors of any county, upon the Mayor or Manager of any city or town, and upon any equivalent officials in counties, cities, and towns having alternate forms of government, within the Company's service territories. Service shall be made by first-class mail or delivery to the customary place of business or residence of the person served.

(7) On or before June 4, the Cooperative shall file with the Clerk of the Commission at the address set forth above proof

of notice and service as required in Ordering Paragraphs (5) and (6) above.

(8) On or before June 4, 2001, any interested person wishing to comment on A&N's application, or desiring a hearing in this matter, shall file an original and fifteen (15) copies of such written comments and requests for hearing with the Clerk of the Commission at the address set forth above, and shall refer to Case No. PUE010008. A copy of such comments or requests for hearing shall simultaneously be sent to counsel for A&N, at the address set forth above. Any request for hearing shall detail reasons why such issues cannot be adequately addressed in written comments. If no sufficient request for hearing is received, a formal hearing with oral testimony may not be held, and the Commission may make its decisions based upon papers filed in this proceeding.

(9) On or before June 29, 2001, the Commission Staff shall review the application and shall file a report presenting its findings and recommendations.

(10) On or before July 16, 2001, the Cooperative and any interested persons may file with the Clerk of the Commission at the address set forth above any response to the Staff Report.

(11) The Cooperative shall respond to written interrogatories within ten (10) days after receipt of same.

Except as modified above, discovery shall be in accordance with Part VI of the Commission's Rules of Practice and Procedure.

(12) This matter is continued generally.